



# CVCWA

## Central Valley Clean Water Association

*Representing Over Sixty Wastewater Agencies*

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*Submitted Via Electronic Mail*

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Central Valley Region  
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**Re: Comments on Proposed Amendments to Order No. R5-2007-0036 (NPDES No. CA0079154) for the City of Tracy Wastewater Treatment Plant**

Dear Ms. Perreira:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to submit these comments on the above-referenced Tentative Order to amend the waste discharge requirements for the City of Tracy Wastewater Treatment Plant (Tracy WWTP) (Order No. R5-2007-0036<sup>1</sup> or “WDRs”). CVCWA is a non-profit organization that represents publicly owned treatment works throughout the Central Valley Region in regulatory matters affecting surface water discharge and land application. We approach these matters with a perspective to balance environmental and economic interests consistent with state and federal law. In this spirit, we provide the following comments in support of the Central Valley Regional Water Quality Control Board (Regional Water Board) adopting the Tentative Order’s aluminum amendments to the Tracy WWTP WDRs.

**A. The Proposed Amendments Are Consistent With a Water Effects Ratio (WER) Study and Antidegradation and Antibacksliding Requirements**

The Tentative Order properly modifies the aluminum effluent limitations and removes the associated compliance schedule based on the City of Manteca’s (Manteca) 2007 WER study for aluminum. (Tentative Order at pp. 8, 9, 15, 29-30, F-32.) As the Tentative Order explains, the WER study was performed for the San Joaquin River in the vicinity of the Tracy WWTP outfall

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<sup>1</sup> National Pollutant Discharge Elimination System (NPDES) No. CA0078590.

and indicated that a WER of 22.7 can be applied to the chronic criterion for aluminum and protect aquatic life. (*Ibid.*) The WER study was conducted in accordance with United States Environmental Protection Agency (USEPA) guidance and reviewed and determined to be scientifically defensible. (Order No. R5-2009-0095<sup>2</sup>; Tentative Order at p. F-40.)

The characteristics of receiving water (e.g., hardness and pH) near the Manteca discharge are similar to those near the Tracy WWTP discharge. (Tentative Order at p. F-32 to F-33.) Accordingly, the Tentative Order properly concludes that the chronic aquatic life criterion recommended in the USEPA National Ambient Water Quality Criteria (NAWQC) does not apply to the Tracy WWTP's receiving waters. (*Id.* at pp. F-32 to F-33.) As further support for use of the WER, the Tentative Order refers to USEPA's determination that using a WER study may better reflect the actual toxicity of aluminum to aquatic organisms and that the revised effluent limitations are consistent with the state and federal antidegradation policies and federal anti-backsliding rules. (*Id.* at pp. F-32, F-33, F-44.)

**B. Current Regional Water Board Practice Supports Use of the WER Study**

Use of Manteca's WER study for the Tracy WWTP's discharge is consistent with existing Regional Water Board practice. For example, in the NPDES permit issued for the City of Modesto Water Quality Control Facility (Modesto WQCF), the Regional Water Board found that the characteristics of the river near Manteca's discharge were similar to those near the Modesto WQCF (e.g., hardness and pH). (Order No. R5-2008-0059-01<sup>3</sup> at p. F-27.) As a result, the Regional Water Board relied upon Manteca's WER study to determine that the chronic criterion recommended in the NAWQC was inappropriate for, and therefore did not apply to, the receiving water. (*Id.* at pp. F-27 to F-28.)

**C. A Recent Proposed Superior Court Decision Does Not Apply to the Tracy WWTP's Aluminum Effluent Limitations**

We are aware of the recent *proposed* decision of the Sacramento County Superior Court in a case involving the review of the NPDES permit for El Dorado Irrigation District's Deer Creek Wastewater Treatment Plant (Deer Creek WWTP).<sup>4</sup> (Proposed Statement of Decision, *California Sportfishing Protection Alliance v. California Regional Water Quality Control Board, Central Valley Region* (Case No. 34-2009-80000309) (Dec. 2, 2010) (Proposed Decision).) The Proposed Decision finds that the weight of the evidence did not support the Regional Water Board's determination not to use the NAWQC chronic criterion for aluminum in the permit for the Deer Creek WWTP. (*Id.* at p. 6.) However, if adopted, the Proposed Decision would not apply to the Tracy WWTP discharge with regard to aluminum. Unlike the aluminum effluent limitations in the Deer Creek WWTP permit, those in the Tentative Order are based on a WER study. (*Id.* at pp. 6, 7; Order No. R5-2008-0173 at pp. F-19 to F-20.) The Proposed Decision recognizes that a WER may be used in lieu of the NAWQC. (Proposed Decision at pp. 7, 8.) Further, the

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<sup>2</sup> *Waste Discharge Requirements for City of Manteca And Dutra Farms, Inc. City of Manteca Wastewater Quality Control Facility*, Order No. R5-2009-0095, NPDES No. CA0081558.

<sup>3</sup> *Waste Discharge Requirements for the City of Modesto Water Quality Control Facility*, Order No. R5-2008-0059-01, NPDES No. CA0079103.

<sup>4</sup> *Waste Discharge Requirements for El Dorado Irrigation District Deer Creek Wastewater Treatment Plant*, Order No. R5-2008-0173, NPDES No. CA0078662.

Proposed Decision is not yet final, and thus its findings and conclusions may change. (*Id.* at p. 1.) Even if the court issues the findings and conclusions as proposed, they are appealable on several grounds.

We appreciate your consideration of these comments and request that the Regional Water Board amend the aluminum provisions in the WDRs as proposed in the Tentative Order. If you have any questions or CVCWA can be of further assistance, please contact me at (530) 268-1338 or [eoofficer@cvcwa.org](mailto:eoofficer@cvcwa.org).

Sincerely,



Debbie Webster  
Executive Officer

cc: Steve Bayley, City of Tracy  
Pamela Creedon, Regional Water Quality Control Board